

REMARKS/ARGUMENTS

I. STATUS OF CLAIMS

Claims 1-39 remain in this application. Claims 1, 20, and 39 have been amended.

II. CLAIM REJECTIONS – 35 U.S.C. § 103

The Final Office Action rejected Claims 1-7, 10, 20-26 and 29 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,530,085 to Perlman in view of U.S. Patent 6,476,947 to Harvey. The rejection is respectfully traversed.

Claims 1 and 20 appear as follows:

1. A method for providing control of a set-top box with infrared (IR) signals, comprising the steps of:

providing an IR control database residing on a local mass storage system in a set-top unit, wherein said IR control database contains a plurality of IR control entries;

generating an IR control packet from a first IR control entry of said IR control database;

controlling said set-top box with said IR control packet; and

wherein said set-top unit records video and/or audio content received from said set-top box on said local mass storage system.

20. An apparatus for providing control of a set-top box with an IR signal, comprising:

a local mass storage system in a set-top unit;

an IR control database residing on said mass storage system wherein said IR control database contains a plurality of IR control entries; an IR control packet, wherein said IR control packet is generated from a first IR control entry of said IR control database; and a transmitter that controls said set-top box by transmitting said IR control packet thereto; and wherein said set-top unit records video and/or audio content received from said set-top box on said local mass storage system.

In particular, Perlman does not teach or disclose a system that provides an IR control database residing on a local mass storage system in a set-top unit, wherein said IR control database contains a plurality of IR control entries as claimed in Claims 1 and 20. Applicant recognizes that the Office Action is using Perlman to cite a teaching of an IR control database. The Office Action states that Perlman discloses:

“Providing an IR control database containing a plurality of IR entries (column 10, lines 30-37, the Internet terminal may control multiple devices via IR codes).”

The Office Action also states in the Response to Arguments section:

“Perlman must maintain a database of IR control codes somewhere within the system, as a single remote control, associated with the Internet terminal rather than the VCR or cable box, generates the command to control the cable box. As a single device generates the commands, which controls a plurality of different devices, a database of some type must be present within the system.”

However, the Office Action’s statements are not supported by the disclosure in Perlman and are based on pure speculation. The Office Action’s response is clearly speculation as shown in the Office Action’s statement “Perlman **must** maintain a database of IR control codes **somewhere** within the system”. The notion that Perlman

has a database of IR control codes **somewhere** within his system is a guess that is contrary to Perlman's actual text. Perlman in col. 10, lines 28-37 states (emphasis added):

“It is anticipated that the Internet terminal will incorporate **an IR receiver to receive commands from a remote control**. Rather than requiring the user to use a separate remote to operate the VCR, the **Internet terminal can relay the commands to the VCR** using IR connector 162. By providing IR connectors to each consumer electronics device with an IR receiver, each consumer electronics device may be controlled by a single remote.”

The Office Action repeatedly misinterprets the term “relay” as used by Perlman.

Webster's Ninth New Collegiate Dictionary defines relay as:

“the act of passing along (as a message or ball) by stages”

Further Dictionary.com defines relay as:

“An act of passing something along from one person, group, or station to another.”

Given these definitions, Perlman is saying that his Internet terminal passes along commands from the remote control to the VCR. The Office Action's statements express a contrary interpretation to the literal translation of Perlman. The Office Action believes that “relay” means that there must be a translation step in between which is contrary to the definition of “relay”.

The Office Action further states in the Response to Arguments section:

“In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. ...”

It is clear from the Office Action's misinterpretation of Perlman's use of the term “relay” that the Office Action is using information gleaned from the Applicant's

disclosure since the literal interpretation of Perlman's col: 10, lines 28-37 is that Perlman's Internet terminal passes along commands from a remote control to a VCR. Perlman makes no reference to any need for an IR control database nor does he mention or contemplate an IR control database. However, the Applicant's disclosure does make such a reference.

Further, neither Perlman nor Harvey teach or disclose a system wherein said set-top unit records video and/or audio content received from said set-top box on said local mass storage system as claimed in Claims 1 and 20.

Therefore, Perlman in view of Harvey does not teach or disclose the invention as claimed.

Claims 1 and 20 are in allowable condition. Claims 2-7, 10, and 21-26, 29, are dependent upon independent Claims 1 and 20, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

III. CLAIM REJECTIONS – 35 U.S.C. § 103

The Final Office Action rejected Claims 8, 9, 13-19, 27, 28 and 32-38 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,530,085 to Perlman in view of U.S. Patent 6,476,947 to Harvey in further view of U.S. Patent 6,239,718 to Hoyt. The rejection is respectfully traversed.

The rejection under 35 U.S.C. §103(a) is deemed moot in view of Applicant's comments regarding Claims 1 and 20, above. Claims 8, 9, 13-19, and 27, 28, 32-38, are dependent upon independent Claims 1 and 20, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

IV. CLAIM REJECTIONS – 35 U.S.C. § 103

The Final Office Action rejected Claims 11, 12, 30, and 31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,530,085 to Perlman in view of U.S. Patent 6,476,947 to Harvey in further view of U.S. Patent 6,057,874 to Michaud.

The rejection under 35 U.S.C. §103(a) is deemed moot in view of Applicant's comments regarding Claims 1 and 20, above. Claims 11, 12, and 30, 31, are dependent upon independent Claims 1 and 20, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

V. CLAIM REJECTIONS – 35 U.S.C. § 103

The Final Office Action rejected Claims 39 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,530,085 to Perlman in view of U.S. Patent 6,476,947 to Harvey, U.S. Patent 6,057,874 to Michaud and U.S. Patent 6,081,855 to DeCarmo. The rejection is respectfully traversed.

Claim 39 is allowable in the same manner as Claims 1 and 20 with regard to the fact that Perlman does not teach or disclose "Providing an IR control database containing a plurality of IR entries" as the Office Action states.

Claim 39 is in allowable condition. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

VI. MISCELLANEOUS

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The Applicants believe that all issues raised in the Office Action have been addressed and that allowance of the pending claims is appropriate. Entry of the amendments herein and further examination on the merits are respectfully requested.


The Examiner is invited to telephone the undersigned at (408) 414-1080 ext. 214 to discuss any issue that may advance prosecution.

No fee is believed to be due specifically in connection with this Reply. To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this Reply to our Deposit Account No. 50-1302.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

on February 2, 2006

by 

(Signature)